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Lynne Finley
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Collin County, Texas
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NO. 417-53803-2020

IN THE INTEREST OF	§	**IN THE DISTRICT COURT**
	§	
S.L., J.L. AND L.L.	§	**417TH JUDICIAL DISTRICT**
	§	
CHILDREN	§	**COLLIN COUNTY, TEXAS**

EMERGENCY MOTION TO DENY PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR SANCTIONS

This *Emergency Motion to Deny Petition for Writ of Habeas Corpus and Request for Sanctions* is brought by Petitioner/Father Michael Long, who would show as follows:

1. On or about September 5, 2020 (a Saturday), all counsel was given notice that the former judge in this matter requested a "conference" with the attorneys, and that the parties themselves were not to be in attendance. This was to take place on September 7, 2020 at 9am.

2. On September 7, 2020 at 9 a.m. (a court holiday), the former judge held a phone conference with the counsel without the parties present, and without any advance notice to counsel for Petitioner what the subject of the conference was to be. The conference was not recorded in any manner, and there is no record of the conference. The judge and counsel talked for about one hour, and the former judge made known her intent to make orders concerning, among other things, the possession of and access to the children in this suit.

3. Thereafter, at approximately 4pm on September 7, 2020, counsel for Respondent provided a proposed order entitled "Additional Temporary Orders in Suit Affecting the Parent-Child Relationship" to counsel for Petitioner and to the judge. Later in the evening, the judge signed the order in the exact form tendered by Respondent's counsel without giving Petitioner or his counsel any

proper notice, an opportunity to be heard, or an opportunity to present evidence or make motions. Thereafter, the judge filed to voluntarily recuse herself from this case.

4. **The Additional Temporary Orders in Suit Affecting the Parent-Child Relationship was granted by a court that did not give the contestants reasonable notice of the proceeding and an opportunity to be heard. Therefore, it cannot support a writ for habeas corpus as requested by Respondent. TEX. FAM. CODE § 157.372(b).**

5. Thereafter, on September 7, 2020, counsel for Petitioner filed a Motion for Temporary Restraining Order asking to prevent Respondent from removing the children from his possession, amongst other relief. In support of emergency relief, Petitioner attached a supporting affidavit.

6. On or about September 8, 2020, Respondent/Mother Kelly Long filed her Petition for Writ of Habeas Corpus, using the Additional Temporary Orders in Suit Affecting the Parent-Child Relationship as its basis.

7. The Petition for Writ of Habeas Corpus was served on counsel for Petitioner/Father at approx. 11 a.m. on September 8, 2020.

8. A few minutes prior, at approximately 10:58 a.m., Counsel for Petitioner contacted the Court coordinator, cc'ing all other counsel, and asked to which judge Petitioner's pending emergency motions should be directed. The response was that a judge would be named at a later, non-specified time, that the Motion for Temporary Restraining Order would not be heard until the following afternoon, and other relief had been granted without notice or motion by an unidentified judge. No written order has been provided, though several requests have been made.

9. At no time did Counsel for Respondent/Mother provide notice to counsel for Petitioner/Father that he would be approaching the Court for *ex parte* relief, in violation of Rule 2.4(a) of the Local Rules of Collin County District Courts.

10. Thereafter at approximately 1:29 p.m. on September 8, 2020, counsel for Petitioner contacted counsel for Respondent concerning another issue in the case and learned for the first time that **Respondent's counsel had *ex parte* communications with at least one, if not more, judges regarding the case and the Petition for Writ of Habeas Corpus- to include requesting (again, ex parte and without notice) outside of the Petition for additional other relief which apparently had been granted by the unidentified judge, again, without written motion, notice, or hearing or an opportunity for Petitioner/Father to be heard.**

11. Thereafter at approximately 1:18 p.m., counsel for Respondent filed a proposed Writ of Attachment, ordering the attachment of all three children the subject of this suit. **There is no order to support Respondent taking possession of the child, S.L.**

12. At this time, it has not been disclosed to Counsel for Petitioner to which judge emergency motions should be directed. It has been communicated that no judge will hear Petitioner's Motion for Temporary Restraining Order until September 9, 2020 at 1:30 p.m. **In other words, an undisclosed judge appears to be having *ex parte* communications and making orders in this matter at Respondent's counsel's request, yet denying Petitioner equal access to the Courts.**

13. The previous order was granted by a court that did not give the contestants reasonable notice of the proceeding and an opportunity to be heard. Therefore, it cannot support a writ for habeas corpus as requested by Respondent. TEX. FAM. CODE § 157.372(b). The Court may not render any order compelling return of any child based on that order. *See* id.

14. Under Rule 13 of the Texas Rules of Civil Procedure, the court shall impose an appropriate sanction when a party signs an instrument which is either groundless and brought in bad faith or groundless and brought for the purpose of harassment. These sanctions can be imposed upon the person who signed it, a represented party, or both.

15. Respondent's Petition for Writ of Habeas Corpus as well as his other oral ex parte motions are groundless an brought in bad faith or groundless and for the purpose of harassment.

16. Petitioner asks the Court to make the appropriate findings and issue sanctions against Respondent in accordance with the relief requested herein, to include assessing all reasonable and necessary attorney's fees incurred by Petitioner in this effort against Respondent as an interest bearing judgment.

Petitioner/Father Michael Long prays that the Court grant this *Emergency Motion to Deny Petition for Writ of Habeas Corpus*, and deny Respondent/Mother's Petition for Writ of Habeas Corpus. Petitioner/Father further prays the Court deny all oral motions for affirmative relief in this matter made by counsel for Respondent *ex parte*, without any notice to Petitioner or his counsel or an opportunity to be heard. Petitioner further prays the Court find that Respondent's Petition for Writ of Habeas Corpus is groundless and brought in bad faith, or groundless and brought for the purpose of harassment, and to order an appropriate sanction under Rule 13 of the Texas Rules of Civil Procedure. Petitioner prays for general relief

Respectfully submitted,

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Certificate of Service

This is to certify that, pursuant to Rule 21 of the Texas Rules of Civil Procedure, a true and correct copy of the foregoing document has been served upon the below-named individual in the following manner as prescribed by Rule 21(a) of the Texas Rules of Civil Procedure on this the 8th day of September, 2020.

____ Hand Delivery ____ Federal Express ____ Certified Mail, Return Receipt Requested
____ Regular Mail ____ Facsimile __X__ Email __X__ E-Service

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Status as of 9/8/2020 2:55 PM CST

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